

ASSEMBLY, No. 2119

STATE OF NEW JERSEY

218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Assemblyman JERRY GREEN

District 22 (Middlesex, Somerset and Union)

Assemblywoman MILA M. JASEY

District 27 (Essex and Morris)

SYNOPSIS

Establishes the "New Jersey Residential Foreclosure Transformation Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning the foreclosure of residential properties, the
2 transfer and dedication of foreclosed residential properties for
3 affordable housing, and supplementing Title 55 of the Revised
4 Statutes.

5
6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8
9 1. This act shall be known and may be cited as the "New Jersey
10 Residential Foreclosure Transformation Act."

11
12 2. The Legislature finds and declares that:

13 a. In recent years, there has been an enormous expansion in the
14 number of mortgage foreclosure filings in New Jersey and across
15 the nation. The number of mortgage foreclosure actions filed in the
16 New Jersey Courts grew from just over 20,000 in 2005 to more than
17 51,000 in 2008, 66,000 in 2009, and 58,000 in 2010.

18 b. Preliminary information indicates a decline in the number of
19 residential mortgage foreclosure filings over 2011. However, this
20 decline is largely attributable to actions undertaken by the New
21 Jersey Judiciary which, in December of 2010, suspended the
22 processing of uncontested residential foreclosures by the six biggest
23 lenders in order to address "robo-signing" and other processing
24 irregularities.

25 c. Despite this decline, it has been reported that more than one
26 in 10 New Jersey mortgage loans are already in foreclosure or are
27 90 days or more in arrears. Because of the large number of
28 foreclosures filed during the 2009-2010 period, and the Judiciary's
29 suspension of foreclosure processing, reports indicate that as of
30 August 2011 more than 100,000 residential foreclosure cases were
31 still open. Now that the courts have resumed processing
32 foreclosures for the big six lenders, it is widely believed that
33 foreclosure filings will increase during 2012. This is due in part to
34 the large number of mortgages that are seriously delinquent, more
35 than 90 days past due. Reports have indicated that during the
36 suspension period mortgage lenders were waiting to file more than
37 28,000 additional foreclosures and that another 55,000 mortgage
38 loans were over 90 days delinquent.

39 d. Many of these foreclosed residential properties are vacant,
40 undermining the health, safety, and economic vitality of
41 neighborhoods, depressing their property values, and reducing
42 revenues to municipalities.

43 e. It is the public policy of this State to encourage the
44 production of low-income and moderate-income housing to serve
45 the general welfare of all the State's residents.

46 f. The availability of tens of thousands of foreclosed
47 residential properties presents a unique opportunity for the State to

1 facilitate the purchase and dedication, or the rental, of housing units
2 for low-income and moderate-income residents.

3 g. Establishment of a temporary program within the New
4 Jersey Housing and Mortgage Finance Agency dedicated to the
5 purpose of identifying foreclosed residential properties and
6 facilitating their purchase and dedication for occupancy or their
7 rental, including, but not limited to, low-income and moderate-
8 income families, is in the public interest of the State.

9

10 3. As used in this act:

11 "Affordable" means a sales price or rent within the means of a
12 low-or moderate-income household.

13 "Agency" means the New Jersey Housing and Mortgage Finance
14 Agency established pursuant to section 4 of P.L.1983, c.530
15 (C.55:14K-4).

16 "Community development financial institution" means an entity
17 designated and certified by the United States Department of the
18 Treasury as a Community Development Financial Institution
19 pursuant to 12 CFR Part 1805.

20 "Contractor" means a qualified community development
21 financial institution that enters into a contract or loan with the
22 agency pursuant to section 7 of this act.

23 "Eligible property" means any residential property that is owned
24 by an institutional lender as the result of a mortgage foreclosure.

25 "Institutional lender" or "lender" means any lawfully constituted
26 mortgage lender, mortgage investor, or mortgage loan servicer that
27 owns an eligible property including, but not limited to any agency
28 or instrumentality of the United States, including, but not limited to,
29 the Government National Mortgage Association, the Federal Home
30 Loan Mortgage Corporation, the Federal National Mortgage
31 Association, the Federal Housing Administration, the Small
32 Business Administration, the Resolution Funding Corporation, and
33 the Federal Deposit Insurance Corporation.

34 "Intercreditor agreement" means an agreement among creditors
35 that sets forth the various lien positions and the rights and liabilities
36 of each creditor and its impacts on the other creditors.

37 "Low-income" means 50 percent or less of the median gross
38 household income for households of the same size within the
39 housing region in which the household is located, based upon the
40 United States Department of Housing and Urban Development's
41 Section 8 Income Limits (uncapped) averaged across counties for
42 the housing region.

43 "Low-income housing" means housing affordable, according to
44 United States Department of Housing and Urban Development or
45 other recognized standards for home ownership and rental costs,
46 and occupied or reserved for occupancy by households with a gross
47 household income equal to 50 percent or less of the median gross

1 household income for households of the same size within the
2 housing region in which the housing is located.

3 "Market-rate units" means housing not restricted to low- and
4 moderate-income households that may sell or rent at any price.

5 "Moderate-income" means more than 50 percent but less than 80
6 percent of the median gross household income for households of the
7 same size within the housing region in which the household is
8 located, based upon the United States Department of Housing and
9 Urban Development's Section 8 Income Limits (uncapped) averaged
10 across counties for the housing region.

11 "Moderate-income housing" means housing affordable,
12 according to United States Department of Housing and Urban
13 Development or other recognized standards for home ownership
14 and rental costs, and occupied or reserved for occupancy by
15 households with a gross household income equal to more than 50
16 percent but less than 80 percent of the median gross household
17 income for households of the same size within the housing region in
18 which the housing is located.

19 "Program" means the "New Jersey Foreclosure Transformation
20 Program" established pursuant to this act.

21 "Qualified community development financial institution" means
22 a community development financial institution that has a minimum
23 of \$50 million in assets under management and a minimum of two
24 years' experience in the financing and acquisition of real estate for
25 affordable housing.

26 "Qualifying household" means a very-low-, low-, or moderate-
27 income household, the head of which certifies in writing that the
28 household intends to occupy the property as a principal residence
29 for at least 12 months.

30 "Very-low-income" means 30 percent or less of the median gross
31 household income for households of the same size within the
32 housing region in which the household is located, based upon the
33 United States Department of Housing and Urban Development's
34 Section 8 Income Limits (uncapped) averaged across counties for
35 the housing region.

36 "Very-low-income housing" means housing affordable,
37 according to United States Department of Housing and Urban
38 Development or other recognized standards for home ownership
39 and rental costs, and occupied or reserved for occupancy by
40 households with a gross household income equal to 30 percent or
41 less of the median gross household income for households of the
42 same size within the housing region in which the housing is located.

43

44 4. There is established in the New Jersey Housing and
45 Mortgage Finance Agency the "New Jersey Foreclosure
46 Transformation Program," which shall be a temporary program for
47 the purpose of purchasing foreclosed residential properties from

1 institutional lenders and dedicating them for occupancy as
2 affordable housing.

3

4 5. To implement the program, the agency shall have the
5 following powers:

6 a. To enter into contracts and modify, or consent to the
7 modification of, any contract or agreement to which the agency is a
8 party or in which the agency has an interest under this act, with or
9 without public bidding, notwithstanding the provisions of any other
10 law.

11 b. To make advance, progress, or other payments.

12 c. To acquire, hold, lease, mortgage, maintain, and dispose of,
13 at public or private sale, real and personal property, using any
14 legally available private sector methods including without
15 limitation, securitization of debt or equity, limited partnerships,
16 mortgage investment conduits, and real estate investment trusts, and
17 otherwise exercise all the usual incidents of ownership of property
18 necessary and convenient to the operations of the agency; provided,
19 however, that every contract for the acquisition of real property
20 entered into by the agency, and every deed conveying real property
21 to the agency, shall provide that if the agency holds title to the
22 property on the 61st day after the date of the deed, all rights, title,
23 and interest conveyed to the agency shall automatically revert to
24 and vest in the grantor without the necessity of any further act on
25 the part of or on behalf of the grantor, it being the intent to convey a
26 determinable estate. In each case where title has reverted to and re-
27 vested in the grantor as provided in this subsection, the agency shall
28 memorialize the reversion and re-vesting of title by the immediate
29 execution and delivery of a deed to the grantor conveying all of the
30 agency's estate, right, title and interest in and to the property
31 described therein.

32 d. To sue and be sued in its own name in any court of
33 competent jurisdiction.

34

35 6. In addition to the powers of the agency described in section
36 5 of P.L. , c. (C.) (pending before the Legislature as this
37 bill) in implementing the program, the agency shall have the
38 following powers:

39 a. The agency may enter into contracts with any person,
40 corporation, or entity which the agency determines to be necessary
41 or appropriate to carry out its responsibilities under this act. Such
42 contracts shall be subject to the procedures adopted pursuant to
43 section 7 of this act.

44 b. In carrying out the agency's duties under this act, the agency
45 may utilize the services of private persons, including real estate and
46 loan portfolio asset management, property management, auction
47 marketing, and brokerage services, if such services are available in

1 the private sector and the agency determines utilization of such
2 services are practicable and efficient.

3
4 7. a. (1) To implement the program, the agency shall enter
5 into contracts or loans, or both, with no more than two qualified
6 community development financial institutions to negotiate, bid for,
7 and purchase eligible properties and mortgage assets from
8 institutional lenders for the purpose of producing affordable
9 housing. In selecting contractors from among qualified community
10 development financial institutions, the agency shall accord a strong
11 preference to qualified community development financial
12 institutions that have substantial experience in lending in New
13 Jersey and substantial knowledge of New Jersey real estate markets.
14 The agency may enter into contracts or loans, or both, with a
15 partnership or consortia of organizations, as long as a qualified
16 community development financial institution is the lead entity, or a
17 partnership or consortia of multiple qualified community
18 development financial institutions.

19 (2) The contracts shall specify the amounts, schedules, and
20 types of funding to be provided by the agency to the qualified
21 community development financial institutions, the repayment
22 schedule for the portion of that funding to be repaid, and targeted
23 goals of affordable housing to be produced. The agency may
24 condition funding and goals upon the availability of funds to the
25 agency. The contracts shall specify reasonable administrative costs
26 sufficient to enable the qualified community development financial
27 institutions to exercise their obligations pursuant to this act. The
28 contracts shall set forth criteria for instances when the purchase,
29 sale, lease, and conveyance of properties as market-rate units
30 furthers the purposes of this act.

31 b. (1) As soon as possible after the agency or one of its
32 contractors enters into a contract to purchase an eligible property or
33 mortgage asset for use as affordable housing, the agency or
34 contractor shall provide the municipality in which the property is
35 located a 45-day period of time within which the municipal
36 governing body may:

37 (a) consent or withhold consent to the agency's or contractor's
38 purchase of the eligible property for use as affordable housing, or

39 (b) opt to purchase the property in lieu of the agency or
40 contractor in accordance with the provisions set forth in this act.
41 The municipality may waive these rights through written notice to
42 the agency or, if so designated by the agency, its contractors, prior
43 to the expiration of the 45-day period.

44 (2) Those eligible properties purchased by the qualified
45 community development financial institutions and designated
46 pursuant to this act for use as affordable housing shall be restricted
47 for occupancy as affordable housing for a period of 30 years. The
48 restriction shall be set forth in the deed and recorded in the office of

1 the county recording officer of the county wherein the real estate is
2 situated. Affordability controls shall be imposed upon purchase and
3 maintained upon transfer in accordance with the provisions of the
4 Uniform Housing Affordability Controls promulgated by the
5 agency.

6 c. (1) As soon as possible after entering into a contract to
7 purchase an eligible property for use as affordable housing, but not
8 less than five days after the date the agency or its contractors enters
9 into the contract, the agency or its contractors shall provide written
10 notice by personal service or certified mail to the governing body of
11 the municipality within which the eligible property is located. The
12 notice shall inform the municipal governing body of:

13 (a) the agency's or contractor's intent to purchase the eligible
14 property and to restrict it for use as affordable housing for 30 years,

15 (b) the municipality's opportunity to consent or to withhold
16 consent to the proposed purchase and dedication of the property for
17 affordable housing,

18 (c) the municipality's opportunity to purchase the eligible
19 property,

20 (d) the municipality's right of first refusal to purchase the
21 property, and

22 (e) the municipality's right to use monies deposited in its
23 affordable housing trust fund.

24 (2) As soon as possible after entering into a contract to purchase
25 an eligible property, but not less than five days after the date the
26 agency or its contractors enters into the contract, the agency or its
27 contractors shall list the property on the Department of the
28 Treasury's website. The listing shall contain basic information
29 about the property, including but not limited to location, condition,
30 and information relating to the estimated fair market value of the
31 property. The agency or its contractors shall make information
32 about the listing available to the agency and, upon request, to
33 municipalities, other public agencies, community development
34 corporations, developers, and qualifying households.

35 (3) The agency or its contractors shall allow public agencies,
36 community development corporations, developers, and qualifying
37 households reasonable access to an eligible property for purposes of
38 inspection.

39 d. (1) In order to consent or withhold consent to the proposed
40 purchase and dedication of an eligible property as affordable
41 housing or exercise its right to purchase an eligible property, the
42 governing body of the municipality shall provide written notice to
43 the executive director of the agency or, if so designated by the
44 agency, its contractors, within 45 days of the municipality's receipt
45 of the notice required pursuant to subsection c. of this section.

46 (2) The governing body of a municipality may adopt a
47 resolution authorizing the mayor or other designated municipal
48 official to respond to notices received pursuant to subsection c. of

1 this section. The resolution may establish parameters for that
2 exercise of authority, including but not limited to the total amount
3 of funds that may be expended and the amount that may be
4 expended for each unit of housing.

5 (3) A municipality may use any available funding sources to
6 purchase eligible properties or mortgage assets through the agency
7 pursuant to this act, except for funds that are dedicated to another
8 purpose by law, covenant, or other obligation.

9 (4) Whenever a municipality does not exercise an option to
10 purchase an eligible property under this section or withhold consent
11 to the proposed purchase and dedication of the property for
12 affordable housing within 45 days of the municipality's receipt of
13 the notice required pursuant to subsection c. of this section, the
14 agency or its contractors may convey the property for occupancy as
15 affordable housing subject to a 30-year deed restriction to another
16 public agency, a community development corporation, a developer,
17 or a qualifying household or the contractors may lease the property
18 for occupancy as affordable housing subject to a 30-year deed
19 restriction. A municipality that does not exercise an option to
20 purchase an eligible property under this section may adopt a
21 resolution authorizing the agency or its contractors to use monies
22 deposited in that municipality's affordable housing trust fund, up to
23 and including the negotiated purchase price of the eligible property,
24 and apply those funds to the purchase of the eligible property.

25 e. Notwithstanding any other provision of this section to the
26 contrary, the agency and, if authorized by contract, its contractors,
27 may purchase, sell, lease, and convey market rate-units without
28 offering those units to the municipality and without imposing
29 affordability controls upon the property if the purchase, sale, lease,
30 and conveyance of those properties as market-rate units satisfy
31 criteria established pursuant to contract in accordance with
32 subsection a. of this section and does not violate the terms of any
33 other provision of law or requirement, including those governing
34 the use of funds used to make the purchase.

35 f. All purchases, sales, leases, and conveyances of property by
36 qualified community development financial institutions exercised
37 pursuant to this section shall be deemed to lessen the burdens of
38 government in furthering the purposes of this act.

39
40 8. a. A municipality that purchases an eligible property
41 pursuant to this act shall sell and convey or lease the housing unit or
42 units acquired within 60 days of the date of purchase, unless it is
43 not possible to do so due to practical or market conditions. In the
44 event that an eligible property is not conveyed or leased within 180
45 days of the date of purchase, or remains vacant for a 180-day period
46 during the pendency of affordability controls, the agency may
47 commence proceedings to take control of the property and to sell

1 and convey or lease the property in furtherance of the purposes of
2 this act and deed restrictions of record.

3 b. The governing body of a municipality that purchases an
4 eligible property pursuant to this act may, by resolution, authorize
5 the private sale and conveyance or the lease of a housing unit or
6 units acquired pursuant to this act. Every deed and rental
7 agreement shall contain a provision specifying the requirement that
8 the housing unit or units shall remain available to low- and
9 moderate-income households for a period of at least 30 years.

10 c. Except as provided in subsection d. of this section, whenever
11 the agency, its contractors, or a municipality purchases an eligible
12 property pursuant to this act from monies deposited in the
13 municipality's affordable housing trust fund and dedicates the
14 property for affordable housing, as required by this act, that
15 municipality shall receive two units of credit towards its affordable
16 housing obligation for each unit of affordable housing dedicated
17 and provided.

18 d. The total number of bonus units of credit beyond the actual
19 units of housing provided pursuant to this act shall not exceed 25
20 percent of whatever the municipality's affordable housing
21 obligation may be. No unit of affordable housing shall receive the
22 bonus units of credit described in this act in addition to any other
23 type of additional units of credit that may be available towards a
24 municipality's affordable housing obligation.

25
26 9. The agency and the State Treasurer shall prioritize the
27 allocation of tax-exempt private activity bonds in the amount
28 necessary to effectuate the purposes of this act in each year until the
29 agency ceases operation of the program, provided that the proceeds
30 of tax-exempt private activity bonds to support the purposes of this
31 act shall be limited to contracts with and loans to qualified
32 community development financial institutions pursuant to section 7
33 of this act.

34
35 10. a. For the purposes of this section:

36 "Foreclosure-impacted municipality" means a municipality that
37 documents a minimum of 10 units of housing that have been
38 foreclosed upon and have remained unsold on a Multiple Listing
39 Service for at least 60 days; and

40 "Units of housing" means units of housing that are not age-
41 restricted and are habitable year-round, including but not limited to,
42 single family homes, condominium units, cooperative units, and
43 mobile homes with at least two bedrooms.

44 b. (1) Prior to the date that a foreclosure-impacted
45 municipality's development fees or payments-in-lieu fees are
46 scheduled to transfer to the "New Jersey Affordable Housing Trust
47 Fund" pursuant to section 8 of P.L.2008, c.46 (C.52:27D-329.2) or
48 section 9 of P.L.2008, c.46 (C.52:27D-329.3), the municipality may

1 adopt a resolution committing the expenditure of municipal
2 affordable housing trust fund monies. These funds shall be used to
3 produce very-low-income, low-income, and moderate-income
4 housing. The resolution shall authorize the transfer of a minimum
5 of \$150,000 from the municipality's municipal affordable housing
6 trust fund to the "Foreclosure to Affordable Housing
7 Transformation Fund" established pursuant to section 11 of this act
8 for use by the agency or its contractors for the provision of
9 affordable housing pursuant to this section and the procedures
10 specified in section 7 of this act.

11 (2) The resolution may authorize the mayor or other designated
12 municipal official to exercise the municipal powers described in
13 section 7 of this act. The resolution may establish parameters for
14 that exercise of authority, including but not limited to purchase
15 price levels for the exercise of that power.

16 c. (1) The agency or its contractors shall use funds transferred
17 pursuant to subsection b. of this section to produce very-low-, low-,
18 and moderate-income housing within the municipality transferring
19 funds pursuant to this section, with a deed restriction specifying that
20 the housing unit or units shall remain available to low- and
21 moderate-income households for a period of at least 30 years.

22 (2) If the agency or its contractors are unable to utilize some or
23 all of the funds provided to produce affordable housing within the
24 municipality within two years of the transfer of such funds to the
25 "Foreclosure to Affordable Housing Transformation Fund"
26 established pursuant to section 11 of this act, the funds shall be
27 returned to the municipality as soon as practicable after the two-
28 year anniversary of such transfer. From the date any such funds are
29 returned to the municipality, the municipality shall be required to
30 commit the funds in accordance with section 8 of P.L.2008, c.46
31 (C.52:27D-329.2) or section 9 of P.L.2008, c.46 (C.52:27D-329.3),
32 as applicable, within the time constraints set forth in those sections
33 or within six months after the date of transfer of funds back to the
34 municipality, whichever is later.

35 d. Affordable housing created pursuant to this section through
36 the "Foreclosure to Affordable Housing Transformation Fund"
37 established pursuant to section 11 of this act, shall receive
38 additional affordable housing credit as set forth in subsection c. of
39 section 8 of this act, even if the municipality does not exercise its
40 right to purchase the property.

41 e. No agency of the State of New Jersey shall take any action
42 to transfer funds from a municipal affordable housing trust fund to
43 the "New Jersey Affordable Housing Trust Fund" established
44 pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320) when
45 such funds are designated to effectuate the purposes of this act
46 during the timeframes established in this section.

1 11. a. There is established within the agency a "Foreclosure to
2 Affordable Housing Transformation Fund," which shall be a non-
3 lapsing, revolving fund and which shall be the repository for funds
4 appropriated or otherwise made available for the purposes of this
5 act, and any interest earned thereon. The fund shall be administered
6 by the agency, in accordance with its authority under section 5 of
7 P.L.1983, c.530 (C.55:14K-5) to manage funds for housing
8 programs.

9 b. The agency may transfer into the "Foreclosure to Affordable
10 Housing Transformation Fund" any amounts held or received by the
11 agency that may be used for the production of affordable housing
12 and that is needed by the agency or its contractors for the purchase
13 of eligible property. Subject to the provisions of sections 20
14 through 28 of P.L.1983, c.530 (C.55:14K-20 through C.55:14K-28),
15 the agency is authorized to issue its bonds to fund the activities of
16 the program; provided, however, that tax-exempt bonds shall only
17 be issued consistent with the requirements of section 9 of P.L. ,
18 c. (C.) (pending before the Legislature as this bill).

19 c. In any year in which the proceeds from the receipts of the
20 additional fee collected pursuant to paragraph (2) of subsection a. of
21 section 3 of P.L.1968, c.49 (C.46:15-7) exceeds \$75 million, the
22 first \$10 million above the \$75 million collected shall be transferred
23 into the "Foreclosure to Affordable Housing Transformation Fund"
24 for the purposes of the production of affordable housing.

25 d. Notwithstanding any provision of law to the contrary, the
26 Commissioner of Community Affairs may transfer into the
27 "Foreclosure to Affordable Housing Transformation Fund" amounts
28 held for the production of affordable housing and not designated for
29 a specific purpose beyond the overall production of affordable
30 housing by the annual budget, including but not limited to monies
31 deposited in the "New Jersey Affordable Housing Trust Fund,"
32 which amounts are needed by the agency for the purchase of
33 eligible property. The commissioner shall consider the transfer of
34 funds from the "New Jersey Affordable Housing Trust Fund" to the
35 "Foreclosure to Affordable Housing Transformation Fund" as a
36 priority for funding until the agency ceases the program's
37 operations.

38 e. All amounts deposited into the "Foreclosure to Affordable
39 Housing Transformation Fund" that are derived from federal
40 funding sources or are otherwise dedicated to the production of
41 affordable housing shall be used exclusively for the production of
42 affordable housing. The agency may use other funds for the
43 production of affordable housing or market rate housing.

44 f. The agency may use annually up to three percent of the
45 monies available in the fund for the payment of any necessary
46 administrative costs related to the administration of this act.

14. This act shall take effect immediately.

The HMFA or, if applicable, one of its contractors, would give the municipality in which the property is located a right to consent or withhold consent to the proposed purchase and dedication of the property as affordable housing and also provide the municipality a

1 right of first refusal to purchase the property and dedicate it as
2 affordable housing. A municipality may exercise its right to
3 purchase and dedicate eligible property for affordable housing,
4 decline the option to purchase, or decline to exercise the option but,
5 instead, authorize the HMFA or its contractors to use monies from
6 the municipality's affordable housing trust fund to purchase the
7 property.

8 Whenever a municipality does not exercise its right of first
9 refusal to purchase a property, the HMFA may purchase the
10 property and convey it for occupancy as affordable housing subject
11 to a 30-year deed restriction to another public agency, a community
12 development corporation, a developer, or a qualifying household.
13 The power of the HMFA to acquire real property under the bill
14 would be limited to short-term purchases, of no more than 60 days,
15 to facilitate prompt conveyance of the property for occupancy as
16 affordable housing subject to a 30-year deed restriction to another
17 public agency, a community development corporation, a developer,
18 or a qualifying household. Every contract for the acquisition of real
19 property entered into by the HMFA, and every deed conveying real
20 property to the HMFA, must provide that if the HMFA holds title to
21 the property on the 61st day after the date of the deed, all rights,
22 title, and interest conveyed to the HMFA will automatically revert
23 to and vest in the grantor without the necessity of any further act on
24 the part of or on behalf of the grantor. The bill requires the HMFA
25 to execute and deliver a confirmatory deed back to the grantor of
26 property in the event title to the property reverts to the grantor.

27 Whenever the HMFA, its contractors or a municipality purchases
28 an eligible property using monies deposited in a municipality's
29 affordable housing trust fund, the municipality would receive two
30 units of credit toward any Council on Affordable Housing-imposed
31 obligation to provide affordable housing for each eligible unit of
32 affordable housing dedicated and provided. The amended bill
33 awards municipalities additional units of credit, above the actual
34 number of dedicated affordable housing units produced, as an
35 incentive for municipalities to authorize the use of their affordable
36 housing trust fund monies for the purchase of eligible properties
37 and to dedicate them as affordable housing.

38 The bill further provides that the number of additional units of
39 credit that a municipality can receive towards its affordable housing
40 obligation for property purchased and dedicated as affordable
41 housing under the bill cannot exceed 25 percent of the
42 municipality's affordable housing obligation and that a municipality
43 cannot receive both additional units of credit for producing a unit of
44 affordable housing under this bill, and additional units of credit for
45 that unit under another provision of law.

46 The bill establishes a mechanism through which a "foreclosure-
47 impacted municipality," one that has 10 or more foreclosed homes
48 listed on a multiple listing service for at least 60 days, can insulate

1 its affordable housing trust funds from the laws that will require the
2 transfer of its trust fund monies to the "New Jersey Affordable
3 Housing Trust Fund." A foreclosure-impacted municipality can
4 accomplish this by adopting a resolution committing the
5 expenditure of its municipal affordable housing trust fund monies
6 for the production of affordable housing and authorizing the
7 transfer of at least \$150,000 of its municipal affordable housing
8 trust fund monies to the HMFA for the HMFA to use to produce
9 affordable housing.

10 The HMFA must use funds transferred from a foreclosure-
11 impacted municipality to produce affordable housing within that
12 municipality. If the HMFA is unable to use all of the transferred
13 funds within two years of the date of transfer, the HMFA would
14 return the remaining funds to the municipality and the municipality
15 would have at least six months from the date the funds are returned
16 to commit the funds in accordance with other provisions of law.
17 During this time period, all municipal trust fund monies designated
18 for the purchase of foreclosed properties would be protected from
19 transfer to the State. A municipality would receive bonus credits,
20 as otherwise provided in the bill, for affordable housing produced
21 by the HMFA or by one of its contractors pursuant to this
22 mechanism.

23 The bill would allow the HMFA to establish criteria to identify
24 the circumstances when the purchase, sale, lease, or conveyance of
25 market-rate units furthers the purposes of the HMFA. The HMFA
26 itself, or through its contractors, would be able to purchase, sell,
27 lease, or convey market-rate units in accordance with those criteria
28 without imposing affordability controls upon the property as long as
29 the transaction does not violate the terms of any other provision of
30 law or requirement.

31 The bill establishes the "Foreclosure to Affordable Housing
32 Transformation Fund," a nonlapsing, revolving fund to serve as the
33 repository for funds appropriated or otherwise made available for
34 the HMFA to fulfill its purposes. The HMFA would administer the
35 fund and would be authorized to transfer into the fund any amounts
36 it has that may be used for the production of affordable housing.
37 The bill authorizes the HMFA to issue bonds to fund the activities
38 of the program. The bill calls for prioritization of the allocation of
39 tax-exempt private activity bonds in order to allow the HMFA to
40 fulfill the purposes of the bill.

41 Under the bill, in any year in which the proceeds from the Realty
42 Transfer Fee additional fee, paid pursuant to paragraph (2) of
43 subsection a. of section 3 of P.L.1968, c.49 (C.46:15-7), exceeds
44 \$75 million, the first \$10 million above the \$75 million collected
45 will be transferred into the "Foreclosure to Affordable Housing
46 Transformation Fund" for the purposes of the production of
47 affordable housing. The bill authorizes the Commissioner of
48 Community Affairs to transfer into the fund certain amounts held

1 for the production of affordable housing, including but not limited
2 to monies deposited in the "New Jersey Affordable Housing Trust
3 Fund."

4 The bill provides that amounts deposited in the fund that are
5 derived from federal funding sources or are otherwise dedicated to
6 the production of affordable housing must be used for the
7 production of affordable housing. However, the bill allows the
8 HMFA to use other funds for the production of affordable housing
9 or market-rate housing and allows the HMFA to use annually up to
10 three percent of fund monies for administrative cost.

11 Finally, the bill requires the HMFA to make an annual report on
12 the program's activities to the Governor and the Legislature, setting
13 forth a complete operating and financial statement covering the
14 program's operations, transactions, and holdings during the year.
15 The HMFA shall display the annual reports on the agency's website.